

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OMAR SHERIEFF CASH,)
Plaintiff) Civil Action
vs.) No. 12-cv-05268
JOHN WETZEL,)
Secretary of Corrections;)
JEFFREY WITHERITE,)
Staff Assistant-Western Region;)
DORINA YARNER,)
Chief Grievance Officer;)
MIKE WENEROWICZ,)
Facility Manager)
SCI Graterford;)
WENDY SHAYLOR,)
Grievance Coordinator;)
E. VEROISKY, Lieutenant;)
LEWIS, Sargent;)
KRYESKI, Correctional Officer;)
AGUIAR, Correctional Officer)
THOMAS DOHMAN;)
JOHN SPAGNOLETTI;)
JOSEPH TERRA;)
JEFFREY BENDER;)
MARK COX;)
JOHN EVERDING;)
BRIAN MOYER;)
PARTICK FINA;)
PARTICK CURRAN;)
EPHRAIN RIVERA; and)
ISAIAH HALL,)
Defendants)

O R D E R

NOW, this 26th day of March, 2014 upon consideration
of the following documents:

- (1) Supplemental Complaint Notice, which notice was filed by plaintiff pro se on August 12, 2013 (Document 35); together with

- (A) Declaration of Omar Sherieff Cash;
 - (B) Commonwealth Defendants' Response in Opposition to Plaintiff's Motion for Leave to Amend the Second Amended Complaint, which response was filed August 23, 2013 (Document 38);
- (2) Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint, which motion was filed August 23, 2013 (Document 37); together with
- (A) Memorandum of Law in Support of Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint;
 - (B) Motion in Opposition to Defendants' Motion to Dismiss, which opposition was filed by plaintiff pro se October 7, 2013 (Document 43);
- (3) Request for Entry of Default, which request was filed by plaintiff pro se August 26, 2013 (Document 39); together with
- (A) Declaration of Omar Sherieff Cash;
 - (B) Memorandum of Law in Opposition to Plaintiff's Motion for Default Judgment, which memorandum was filed by Commonwealth defendants August 28, 2013 (Document 40);
- (4) [Second] Amended Complaint filed July 22, 2013 (Document 30); together with
- (A) Motion for Leave to File an Amended Complaint (Document 33); and
- (5) Supplemental Complaint filed August 12, 2013 (Document 35-1)

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that plaintiff's motion for leave to file a supplemental complaint is granted.

IT IS FURTHER ORDERED that the Clerk of Court shall file plaintiff's Supplemental Complaint which is attached to plaintiff's Supplemental Complaint Notice (Document 35) as Document 35-1.

IT IS FURTHER ORDERED that Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint is granted in part and denied in part.

IT IS FURTHER ORDERED that Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint is granted with respect to Counts 7, 9, 14, 15, and 18.

IT IS FURTHER ORDERED that Counts 7, 9, 14, 15 and 18 are dismissed from the Second Amended Complaint.

IT IS FURTHER ORDERED that Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint is granted with respect to Count 17 with respect to defendants Bender, Everding, Terra, Spagnoletti, and Wenerowicz.

IT IS FURTHER ORDERED that Count 17 is dismissed from the Second Amended Complaint against defendants Bender, Everding, Terra, Spagnoletti, and Wenerowicz only.

IT IS FURTHER ORDERED that Commonwealth Defendants' Motion to Dismiss the Second Amended Complaint is denied in all other respects.

IT IS FURTHER ORDERED plaintiff's Request for Entry of Default is denied.

IT IS FURTHER ORDERED that defendants shall have until April 21, 2014 to file an answer to plaintiff's [Second] Amended Complaint and plaintiff's Supplemental Complaint.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge